

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re:

MARY BRENN A RYLEE,

Debtor.

Chapter 11

(Subchapter V)

Case No. 21-10436

**EXPEDITED AGREED MOTION BETWEEN
DEBTOR AND THE DEBTOR'S NON-FILING SPOUSE FOR ORDER
MODIFYING THE AUTOMATIC STAY TO ESTABLISH
PROCEDURES FOR DIVISION OF COMMUNITY PROPERTY**

TO THE HONORABLE TONY M. DAVIS, UNITED STATES BANKRUPTCY JUDGE:

Debtor Mary Brenna Rylee (the "Debtor") files this *the Expedited Agreed Motion Between Debtor and the Debtor's Non-Filing Spouse for Order Modifying The Automatic Stay to Establish Procedures For Division of Community Property* (this "Motion"), and in support hereof, respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This is a "core" proceeding pursuant to 28 U.S.C. § 157(b). Venue is properly in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105, 362, 541 of Title 11 of the United States Code, § 101 et seq. ("Bankruptcy Code"), and Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") 4001 and 9014.

BACKGROUND

3. On May 31, 2021 (the “Petition Date”), the Debtor filed her voluntary petition for relief under Chapter 11 of the Bankruptcy, thereby initiating this bankruptcy case (the “Bankruptcy Case”). The Debtor has elected to proceed under Subchapter V of Chapter 11.

4. The Debtor is currently in divorce proceedings (the “Divorce Proceeding”) with her non-filing spouse, Michael G. Rylee (the “Spouse” and together with the Debtor, the “Parties”), which has been pending in Travis County, Texas since April 29, 2020. *See In the Matter of the Marriage of Mary Brenna Rylee and Michael Gene Rylee*, Case No. D-1-FM-20-002371 in the 353rd Judicial District Court of Travis County, Texas (the “Family Court”).

5. A key issue in the Divorce Proceeding and this Bankruptcy Case is the division of the Parties’ community property (the “Rylee Community Property”), among which involves three valuable business assets – FLX Energy Services, LLC and Flex 24 Fitness, LLC, and S3Tea (collectively, the “Rylee Businesses”) and other valuable assets, such as homes in Austin and Odessa, Texas.¹ Another key issue in the Divorce Proceeding and this Bankruptcy Case relating the division of the Rylee Community Property is an evaluation of transactions where money was transferred out of the Rylee Business by one of the Parties (the “Unauthorized Transactions”) and the impact of the Unauthorized Transactions on the fair and equitable division of the Rylee Community Property.

6. The Parties seek the entry of a protocol for (i) evaluating the Unauthorized Transactions, (ii) valuing and dividing the Rylee Community Property, including retaining the assistance of an expert financial advisor (the “Financial Advisor”) to be selected by the Subchapter V Trustee (the “Trustee”) in this case, and (iii) sharing costs related to division of the Rylee

¹ The Court has authorized the sale of the Odessa home under a contract entered into by the Parties pre-petition. *See* Docket No. 36.

Community Property. Given the challenges in valuing the business assets, the importance of having a neutral party value the Rylee Community Property, and evaluating the Unauthorized Transactions, the Parties believe the protocol outlined in the Order is in the best interest for the Parties and creditors in this Bankruptcy Case. The Parties agree and stipulate that the findings of the Financial Advisor regarding valuation of assets and forensic conclusions are binding between the Parties, subject to Court approval and objections of creditors.

RELIEF REQUESTED

7. By this Motion, the Parties seek entry of the proposed Order submitted herewith (the “Order”) which includes a protocol jointly approved by the Parties for valuing and attempting to divide the Rylee Community Property under the supervision of the Trustee.

8. Section 105(a) of the Bankruptcy Code provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Further, Section 362(d) provides that the Court has authority to modify the automatic stay of Section 362(a). 11 U.S.C. § 362(d).

9. Here, the Parties only seek entry of a protocol so they can attempt to decide how the Rylee Community Property will be divided, with the ultimate determination on any estate property divisions left to be decided by the Court. Entry of the proposed protocol will not adversely affect creditors. Rather, it will aide the Debtor in formulating a chapter 11 plan, which will ultimately benefit all creditors and parties-in-interest. As such, the Parties believe that entry of the Order is a proper exercise of this Court’s authority and appropriate relief for the Parties and creditors in this Bankruptcy Case.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Debtor respectfully requests that this Court: (i) grant this Motion; (ii) enter the Order, and (iii) grant such other and further relief the Court deems just and equitable.

Dated: July 8, 2021

Respectfully submitted,

HUSCH BLACKWELL LLP

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**PROPOSED COUNSEL FOR DEBTOR MARY
BRENN RYLEE**

CERTIFICATE OF CONFERENCE

I certify that I conferred with all counsel of record regarding the relief sought in this Motion and its expedited consideration. The Debtor's non-filing spouse agrees to the relief requested in this Motion and its expedited consideration. The Subchapter V Trustee, American Momentum Bank, and SouthStar Bank have no objection to the relief requested in this Motion and its expedited consideration. Ector County, Texas and the U.S. Trustee take no position on the relief requested in this Motion and have no objection to its expedited consideration. As of the filing of the Motion, no other parties have taken a position with respect to the relief requested in the Motion or its expedited consideration.

/s/ Jameson J. Watts

Jameson J. Watts

CERTIFICATE OF SERVICE

I certify that on July 8, 2021, a copy of this document was served upon the parties and by the means indicated below.

/s/ Jameson J. Watts

Jameson J. Watts

Notice will be served via ECF to:

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Community National Bank
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